REMARKS

In view of the following remarks, Applicant respectfully requests favorable reconsideration of this application.

The present invention is a computer program for determining whether to classify assets as capital assets or expensed assets. In accordance with the invention, assets are classified as capital or expensed assets by determining the average cost of all models of the given machine type to which the particular asset belongs and comparing that average cost to a predetermined minimum value. All assets of a machine type having an average value that is greater than or equal to the minimum capitalization value are classified as capital assets, while all assets of a machine type having an average value below the minimum capitalization value are classified as expensed assets.

The Office asserts that all of the recitations of the independent claims 1 and 9 are found in IA with the qualification that IA does not disclose a computer program for performing the recited instructions/steps/procedures, but that Owens teaches a computer program.

Applicant respectfully traverses. The process/software recited in both of the independent claims 1 and 9 includes, at least, determining an average value of models of a particular machine type; selecting a minimum capitalization value; determining the machine type of the particular asset in question; determining if the aforementioned average value is greater than or equal to the aforementioned minimum capitalization value; and, if that average value is greater than or equal to that minimum capitalization

value, classifying said asset as a capital asset, and, if that average value is less than that minimum capitalization value, classifying the asset as an expensed asset.

The present rejection is essentially the same rejection asserted in the previous Office Action, which Applicant has already traversed. In this final Office Action, the Office has thoughtfully responded to Applicant's arguments in the Response To Arguments section of the final Office Action. Particularly, the Office has explained how it is reading the IA that reference and applying those teachings against the claims.

Those Responses to Arguments help clarify the Office's position. However, Applicant still respectfully traverses the prior art rejections and offers the following explanations and responses to the Response To Arguments section of the final Office Action.

Applicant intends to show in the discussion below that even if one were to assume that the Office's description of IA is accurate, it would nevertheless still not teach the elements of the claims that the Office has asserted.

First, the Office has asserted that IA discloses, on page 518, deciding whether a cost item associated with an asset after the asset has been purchased should be expensed or capitalized depending on whether the cost item increases the useful life of the asset or the quantity of units produced by the asset. If it has, then it should be capitalized. Otherwise it should be expensed.

The Office considers this to be "determining whether to classify an asset as either a capital asset or an expensed asset". Applicant does not dispute this conclusion per se.

The Office further asserted that IA discloses, at page 509, assigning a value to an asset of the fair market value of what is given up in exchange for the asset or the fair value of the asset received. Although not expressly stated in these terms, the Office essentially then takes Official Notice that estimating fair market value or fair value involves estimating the average pricing of similar assets. Without conceding same and for sake of argument, Applicant will assume this is true.

The Office then asserts that IA also discloses that expenditures below an established arbitrary minimum amount are expensed, rather than capitalized. Applicant agrees.

The Office then further states that IA discloses, in the middle of page 518, determining the unit type with which costs should be associated. Although the Office does not state so expressly, it appears that the Office considers this to be analogous to determining a machine type. Applicant does not agree, but will assume for sake of the present argument that this is true.

The Office then states:

> such fair market value and fair value; distinction of determining a capital asset and to an expensed asset; expenditures below an established arbitrary minimum amount are expensed, rather than capitalized; and the determination of the unit type with which costs should be associated is critical are considered "determining the average value of models of a machine type; comparing that average value to a minimum capitalization value; or classifying the asset as a capital assets or an expensed asset based on that comparison".

Applicant respectfully traverses. Using claim 1 as an example, it recites, in part:

> (1) assigning with respect to each of a plurality of machine types an average value of models of said machine type;
> (2) selecting a minimum capitalization value;
> ...
> (4) determining a machine type of said acquired asset;
> ...

> (6) if said average value for said machine type of said acquired asset is greater than or equal to said minimum capitalization value, classifying said asset as a capital asset and, if said average value for said machine type of said acquired asset is less than said minimum capitalization value, classifying said asset as an expensed asset.

Even assuming, arguendo, everything the Office has asserted with respect to what IA discloses, the rejection still fails because these alleged teachings of IA still do not add up to the present invention in the whole. For instance, the Office has asserted that determining the fair market value of an asset (or of the thing exchanged for the good) involves averaging, as in step 1 of claim 1. The Office further asserted that IA discloses expensing all assets below a certain value, as in step 2 of claim 1. The Office also asserted that IA discloses that determining the machine type with which costs should be associated is critical, as in step 4 of claim 1. Finally, the Office asserted that IA discloses determining whether an asset is a capital asset or an expensed asset, as in step 6 of claim 1.

Even assuming that all of this is true for sake of argument (which it is not), claim 1 still would distinguish over IA. Particularly, step 6 of claim 1 does not simply recite determining whether an asset is a capital asset or an expensed asset. Rather, it discloses making that determination based on "if said <u>average value</u> for said machine type of said acquired asset is greater than or equal to said <u>minimum capitalization value</u>".

Thus, whether or not IA discloses determining the average value of machines of a certain machine type and/or a minimum capitalization value and/or a machine type of the acquired asset is utterly irrelevant to claim 1 if it does not use any of that information to determine whether to capitalize or expense the asset.

That is exactly the case, even assuming all that the Office has asserted.

For instance, it does not matter if IA discloses determining the average price of an asset of a given asset type if it does not compare that average price to the minimum capitalization value and then decide to capitalize or expense the asset based on that comparison. IA most certainly does not disclose doing that and the Office has expressly conceded this in the Office Action. Particularly, the Office stated that IA discloses that the determination of the average price of an asset of a certain asset type is performed <u>in connection with determining the fair market value of an asset</u> (or the thing exchange for the asset), <u>and not in connection with determining if that asset is a capital asset or an expense</u>.

Furthermore and more importantly, the Office also clearly described its understanding of how IA determines whether to expense or capitalize a cost item associated with an asset. Specifically, the Office very clearly describes that the decision is based on whether or not the asset increases the useful life of the machine or the number of units of product that the machine can produce. This has absolutely nothing to do with the fair market value of the asset, the average price of assets of that type or any minimum value.

If IA disclosed using the fair market value for determining whether the asset is a capitalized assets or an expensed asset, then there would at least be something to argue about. However, the Office has not even suggested that this is the case. Rather, the Office has very clearly described what it understands IA to disclose as the criteria for determining whether to expense or capitalize an asset <u>and it has nothing to do with any fair market value or average price</u>.

Accordingly, the decision whether to expense or capitalize the asset in IA has nothing whatsoever to do with the average cost of assets of a similar asset type.

Furthermore, the alternate criterion of expensing all assets below a certain minimum value also has nothing whatsoever to do with the average value of assets of a similar asset type.

According to the Office's own description, IA discloses two ways of determining whether to expense or capitalize an asset, neither of which is based in any way on the average price of assets of a similar type. The fact that IA may disclose (1) determining the average price of assets of a similar type for totally unrelated reasons, on the one hand, and (2) determining whether an asset is to be expensed or capitalized based on unrelated criteria, on the other hand, is essentially irrelevant.

Thus, even accepting, arguendo, the Office's description of IA, IA would not teach the claim limitations asserted.

Accordingly, Applicant respectfully requests the Office to withdraw all of the claim rejections since they are based on an erroneous analysis of the IA reference, which is the primary reference in all of the rejections.

Independent claim 9 includes similar distinguishing language as that discussed above in connection with claim 1. Particularly, claim 9 includes the step "(7) comparing said average value found in step (6) to said minimum capitalization value and, if said average value for said machine type of said acquired asset is greater than or equal to said minimum capitalization value, classifying said asset as a capital asset and, if said average value for said machine type of said acquired asset is less than said minimum capitalization value, classifying said asset as an expensed asset".

The secondary reference, Owens, does not provide the above-described teachings missing from IA. In fact, Owens has merely been cited for disclosing a computer program.

With respect to the dependent claims 2-8 and 10-18, they distinguish over the prior art of record for at least all of the reasons discussed above in connection with the independent claims. The tertiary reference, O'Brien does not contain the teachings are lacking from of the primary reference as discussed above.

Accordingly, all of the claims patentably distinguish over the prior art of record.

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Office to issue a Notice of Allowance at the earliest possible date. The Office is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

Dated: August 29, 2006

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